

#### IV. AMENDMENTS TO THE DRAWINGS

--- Replacement and annotated mark-up drawing sheets for amended figures showing the amended figures, if any, are attached at the Appendix hereto. Each figure is in compliance with 37 C.F.R. § 1.84. An explanation of the changes, if any, is set forth below in this “Amendments to the Drawings” section. Replacement drawing sheets are identified in the top margin as “Replacement Sheet.” Any replacement drawing sheet including amended figures includes all of the figures appearing on the immediate prior version of the sheet. Any annotated drawing sheets, if the same are required by the Examiner, are identified in the top margin as “Annotated Marked-Up Drawings.” Any deleted figure is noted by an instruction to delete the figure. Any corresponding amendment to the specification necessary to be made because of an amendment to the drawings in this section is made in the corresponding “Amendments to Specification” section.

- *THE DRAWINGS OF THE PATENT IS HEREBY AMENDED AS SET FORTH BELOW:*

The attached sheets of drawings includes changes to *Figs. 4-7*. Each of the drawings have been amended to place the drawings in conformance with current requirements. Shading has been removed from each of the figures. Applicant asserts no new matter has been introduced by such amendments to the drawings.

Attachments: Replacement Sheets

## V. REMARKS/ARGUMENTS

- SPECIFICATIONS

In the specification, amendments to paragraph [0026] are submitted to correctly reflect the drawings, as noted above. The reference “Vote” in paragraph [0026], previously indicated as **506** was amended to correctly indicate **507**.

- STATUS OF THE CLAIMS

- Claims 1 through 17 are pending in this application. Claims 1 through 17 have been canceled herein. New claims 18 – 23 are added herein.

- OBJECTIONS

- Examiner's Stance

Claims 2, 5-7, 12, and 16 have been objected to for informalities.

- Applicant's Response

Applicants have canceled the claims in question without prejudice and added new claims. The examiner's objections are therefore deemed moot. Applicants have added new claims believed to overcome the present objections. Applicants' new claims disclose a method for providing indications of market trade quality carried out via real-time calculations and conveying to the investor a concrete indication of broker performance. It is therefore requested that the rejection be removed.

- REJECTIONS

- OVERVIEW

The Examiner has rejected claims 1-17. Claims 1, 3, 4, and 11 have been rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-17 have been rejected under 35 U.S.C. §101 as lacking patentable utility. Claims 1, 2, 5-10, and 12-17 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 2003/0050879 to Rosen et al. (Rosen). Claims 3, and 4 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rosen in view of U.S. Patent Publication No. 2003/0225660 to Noser et al. (Noser). Claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rosen in view of Tradewiser website. Applicant traverses each of the rejections, but asserts that the same are mooted by the cancellation of claims 1 – 17 herein.

- 35 U.S.C. § 112 REJECTION

- Examiner's Stance

The Examiner has rejected claims 1, 3, 4, and 11 under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Applicant's Response

Applicants have canceled the claims rejected by the Examiner under 35 U.S.C. § 112, making the Examiner's argument moot. Applicants have added new claims believed to overcome the present rejection. Applicants' new claims disclose a method for providing indications of market trade quality carried out via real-time data and conveying to the trader one or more market order executions. Withdrawal of the rejection is requested.

- 35 U.S.C. § 101 REJECTION

- Examiner's Stance

The Examiner has rejected claims 1-17 under 35 U.S.C. §101 as lacking patentable utility.

- Applicant's Response

Applicants have canceled the claims rejected by the Examiner under 35 U.S. C. §101, making the Examiner's rejection moot. Applicants have added new claims believed to overcome the present rejection. Applicants' new claims disclose a method for providing indications of market trade quality carried out via real-time data and conveying to the trader one or more market order executions.

- 35 U.S.C. §102(B) REJECTION

- Examiner's Stance

The Examiner has rejected claims 1, 2, 5-10, and 12-17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 2003/0050879 to Rosen et al. (Rosen).

- Applicant's Response

Applicants have canceled claims 1, 2, 5-10 and 12-17 rejected by the examiner under 35 U.S.C. § 102(b) without prejudice and submit new claims directed to the instant invention.

Applicants have added new claims believed to explicitly differentiate the instant invention from the prior art (Rosen) publication which does not teach a method for providing indications of market trade quality carried out via real-time calculations and conveying to the investor a concrete indication of broker performance.

The Examiner asserts Rosen teaches the real-time, or almost real-time, process of evaluating the quality of a securities broker's trading activity and informing an entity thereof. Applicants respectfully disagree. Rosen is directed to monitoring capabilities and confirmation of trade executions that would detect "out of balance," error conditions and assist in controlling operating risk by reporting out-of-balance transactions, such as indicated

by balancing NASD executions v. ACT confirmations. Moreover, the system of Rosen operates by analyzing events and assigning priorities to them to detect anomalies in the trading patterns that may be the result of mistakes or fraudulent activity. This directly teaches away from the instant invention of conveying to an investor indications of market trade quality carried out via real-time calculations. Rosen makes use of mathematical pattern recognition, historical profiles, and artificial intelligence to avoid time consuming analysis of future exceptions based on the erroneous data. Moreover, Rosen only reports “breaks,” i.e. “out-of-balance transactions” to operators, thereby failing to convey real-time indications of execution quality to traders. For the aforementioned reasons, Rosen actually teaches away from the instant invention and applicants request the rejection be withdrawn.

The Examiner further contends that Rosen teaches intercepting an order communication from a trader to broker, accessing order data therefrom and using that order data, citing paragraphs 140-141. Nowhere in the citation referred to by the examiner or within any portion of the disclosure of Rosen is there disclosed the act of intercepting an order communication from a trader to broker, accessing order data therefrom and using that order data. The Examiner respectfully misconstrues the disclosure of Rosen. Paragraphs 140-141 distinctly point out the mismatch of the trades; confirmations not agreeing with an execution price and confirmations not agreeing with an execution quantity, causing the system to alert the user. Rosen does not teach interception of trade communications between a trader and a broker, therefore, applicant request the reject be withdrawn

- 35 U.S.C. §103(A) REJECTION

- Examiner's Stance

The Examiner has rejected claims 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over of U.S. Patent Publication No. 2003/0050879 to Rosen et al. in view of U.S. Patent Publication No. 2003/0225660 to Noser et al.

- Applicant's Response

Applicants have canceled those claims rejected by the examiner and submitted new claims directed to the instant invention. Applicant has added new claims believed to explicitly differentiate the instant invention from the prior art (Rosen) publication describe

above, which does not teach a method for providing indications of market trade quality carried out via real-time calculations and conveying to the investor a concrete indication of broker performance.

Noser is a method of attributing costs to each step of the workflow in the industry. The entirely customary and normal workflow is that the investment manager gives his instructions to the buy side trader, who then instructs the sell side broker, whom then instructs the market center. The disclosure of Noser is directed to a method of calculating and reporting the costs at each level, down to a resolution of one day for market centers. Noser does not elude to nor teach a method for providing indications of market trade quality carried out via real-time calculations and conveying to the investor a concrete indication of broker performance. The combination of Noser and Rosen would not be obvious to one of ordinary skill in the art as the two disclosures, separately or combined, fail to teach any aspect of the present invention.

The Examiners claim that Tradewiser teaches in which the plurality of selected brokers are listed in order of excellence is unfounded. Tradewiser provides several lists of brokers and their services, fees, and margin rates. Tradewiser has provided divided broker listings into several sections, swingtraders and daytraders. The list for daytraders is sorted alphabetically, however the other lists do not appear to have any sorting. Tradewiser does disclose a few brokers are suitable for both daytrading and swingtrading. Tradewiser has not tried to list all online stockbrokers. Tradewiser has listed most of the larger, well known brokers and lists the ones they recommend. Tradewiser discloses a user can compare services, fees, and margin rates and choose the best broker for an individual trading style, but does not indicate a method for doing so. Tradewiser does not teach in which the plurality of selected brokers are listed in order of excellence is unfounded, interception of trade communications between a trader and a broker, or teach a method for providing indications of market trade quality carried out via real-time calculations and conveying to the investor a concrete indication of broker performance.

- *DRAWINGS*

*Figs. 4-7* have been amended to place the drawings in conformance with current requirements. Shading has been removed from each of the figures. Applicant asserts no new matter has been introduced by such amendments to the drawings.

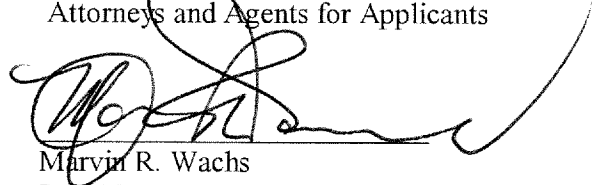
CONCLUSION TO REMARKS

Applicant asserts that this response is fully responsive to the Examiner's office action dated December 18, 2006.

Date: August 22, 2007

Respectfully Submitted,

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A handwritten signature in black ink, appearing to read 'M. Wachs', is written over a horizontal line.

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Enclosures



## **VI. APPENDIX**

- Replacement Sheets
- Annotated Sheets Showing Changes